

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: February 9, 2001	2. BUREAU AGENDA NO.: FEB-2001-QSA-0035*
3. BUREAU: Office of Special Assistants	
4. SECTION(S):	5. PUBLIC MEETING DATE: February 21, 2001
6. APPROVED BY: Director: C. W. Davis 7-1827 <i>CWD</i> Supervisor:	
7. PERSONS IN CHARGE: R. H. Albert 7-8108	<p align="center">DOCKETED</p> <p align="center">MAR 06 2001</p>
8. DOCKET NO.: A-00111016, C-00913256	

9. (a) **CAPTION (abbreviate if more than 4 lines)**
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**

(a) Application of Consolidated Rail Corporation for the Abolition of Thirty-One Crossings of the Enola Branch, LC201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County - Board of Supervisors of Bart Township v. Consolidated Rail Corporation, *et al.*

(b) The issue in the subject proceeding was settled by Order entered on October 9, 1997, which Order was subsequently modified by Orders entered on November 22, 1999, February 16, 2000, and March 9, 2000. In the February 16, 2000 Order, the Pennsylvania Department of Transportation (PennDOT) was ordered to perform work at Crossings 1, 14, 23 and 24 on or before June 30, 2000. The work has been completed at Crossing 1, but not at Crossings 14, 23 and 24. On November 13, 2000, PennDOT filed a Petition to Modify Order with the expectation that the work would be completed by December 31, 2000. Since the work was not completed as expected, PennDOT filed the instant Amended Petition to Modify Order Entered October 9, 1997. The Amended Petition was filed on January 23, 2001. No Response to the Petition was filed.

(c) The Office of Special Assistants recommends that the Commission adopt a proposed draft Opinion and Order, which grants PennDOT's Petition consistent with this Opinion and Order.

Order Doc. No. 230438v1

Calendar Doc. No. 230532v1

10. MOTION BY: Commissioner Chm. Quain

Commissioner Brownell - Yes

SECONDED: Commissioner Bloom

Commissioner Wilson - Yes

Commissioner Fitzpatrick - Yes

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
FOLDER**



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

FEBRUARY 22, 2001

A-00111016
C-00913256

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DOCUMENT
FOLDER

Application of Consolidated Rail Corporation for the abolition of thirty-one crossings of the Enola Branch, LC201323, MP 3.5 to MP 27.0, sub no. 1095X, Harrisburg Division, Lancaster County

Board of Supervisors of Bart Township

v.

Consolidated Rail Corporation and the Pennsylvania Department of Transportation and Commissioners of the County of Lancaster, etal.

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on February 21, 2001 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

DOCKETED

FEB 27 2001

Enclosure
Certified Mail
FG

See Attached Listing for Additional Parties of Record

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held February 21, 2001

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Aaron Wilson, Jr.
Terrance J. Fitzpatrick

DOCKETED
FEB 27 2001

Application of Consolidated Rail Corporation for the
Abolition of Thirty-One Crossings of the Enola
Branch, LC201323, MP 3.5 to MP 27.0, Sub
No. 1095X, Harrisburg Division, Lancaster County

A-00111016

Board of Supervisors of Bart Township

C-00913256

v.

Consolidated Rail Corporation and the Pennsylvania
Department of Transportation and Commissioners of
the County of Lancaster, *et al.*

**DOCUMENT
FOLDER**

OPINION AND ORDER

BY THE COMMISSION:

Before us for disposition is a Petition to Modify Order of Commission
Entered October 9, 1997, As Modified (Petition) filed by the Pennsylvania Department of
Transportation (PennDOT) on January 23, 2001. No Response to the Petition was filed.

History of the Proceedings

The Commission entered an Order in this proceeding on October 9, 1997, which was subsequently modified by Orders entered on November 22, 1999, February 16, 2000, and March 9, 2000. In the February 16, 2000 Order, PennDOT was ordered to perform work at Crossings 1, 14, 23, and 24 on or before June 30, 2000. The work has been completed at Crossing 1, but not at Crossings 14, 23, and 24.

On November 13, 2000, PennDOT filed a Petition to Modify Order with the expectation that the work would be completed by December 31, 2000. Since the work was not completed as expected, PennDOT filed the Amended Petition on January 23, 2001. PennDOT requests that our Order entered February 16, 2000, be modified so as to extend the time for completion of work on Crossings Nos. 14, 23, and 24 to June 30, 2001.

Discussion

In its Petition filed on November 13, 2000, PennDOT represents that it anticipated the work on Crossings 14, 23, and 24 to be completed by December 31, 2000. Unfortunately, all the work has not yet been completed. Therefore, on January 23, 2001, PennDOT filed the instant Amended Petition requesting an extension of time until June 30, 2001, to complete the work directed by the Commission in its Order of October 9, 1997, as amended.

We note that Section 1.15(a)(1) of our Regulations, 52 Pa. Code §1.15(a)(1), governs petitions for extension of time within which to comply with an Order of the Commission. That Section provides, in pertinent part, as follows:

Except as otherwise provided by statute, whenever under this title or by order of the Commission, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Commission, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

We note that the work we assigned to PennDOT, in Ordering Paragraph Nos. 14, 23, and 24 of our Opinion and Order of February 16, 2000, has a direct impact on promoting and ensuring the safety of the travelling public. Under the circumstances, we will caution and otherwise admonish PennDOT to more expeditiously comply with our directives since we do not wish to jeopardize the public safety.

We find no evidence or indication in the record of this proceeding that PennDOT was not diligent in its efforts to comply with our Order entered October 9, 1997, as modified. Also, we note that no Party has objected to PennDOT's request for an extension of time. Under the circumstances, we are persuaded that it is in the public interest to grant PennDOT's request to modify our Order of October 9, 1997, as amended.

Specifically, we shall amend Ordering Paragraph Nos. 14, 23, and 24 as follows:

Crossing No. 14

82. That Pennsylvania Department of Transportation, at its sole cost and expense, by **June 30, 2001**, furnish all material and do all work necessary to perform safety related modifications at the Crossing location, including but not limited to, installation of guide rails and repair of loose stone.

Crossing No. 23

124. That Pennsylvania Department of Transportation, by **June 30, 2001**, at its sole cost and expense, furnish all material and do all work necessary to: (1) undertake any currently needed maintenance and repair of the structure; (2) remove the existing sidewalks and curbs and to construct new paved shoulders in this area; and (3) undertake such additional work as it may deem desirable for the safety of the highway travelers, including installation of guiderails and signage.

Crossing No. 24

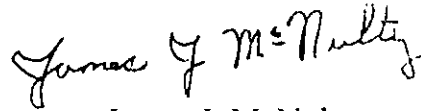
129. That Pennsylvania Department of Transportation, by **June 30, 2001**, at its sole cost and expense, furnish all material and do all work necessary, as it may deem desirable, for the safety of highway travelers, including installation of guiderails and signage.

IT IS ORDERED:

1. That the Amended Petition to Modify Order of Commission Entered October 9, 1997, as amended, filed by Pennsylvania Department of Transportation is granted, consistent with this Opinion and Order.

2. That in all other respects not inconsistent herewith, the Order of October 9, 1997, as amended, shall remain in full force and effect.

THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: February 21, 2001

ORDER ENTERED: **FEB 22 2001**